



DEPARTMENT OF PERSONNEL

209 E. Musser Street, Room 101
Carson City, Nevada 89701-4204
(775) 684-0150
www.state.nv.us/personnel/

MEMO PERD #09/05

February 10, 2005

TO: Personnel Commission Members
Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives
Designees for Rules Distribution
Employee Representatives
Interested Parties

FROM: Jeanne Greene, Director
Department of Personnel

SUBJECT: NOTICE OF WORKSHOP AND HEARING - Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for temporary adoption at the March 25, 2005, Personnel Commission meeting. This meeting will be held at 9:00 a.m. in Las Vegas at the University of Nevada - Las Vegas, 4505 Maryland Parkway, Lied Library, 2nd Floor Conference Room. A videoconference link will also be available in Carson City at Western Nevada Community College, 2201 West College Parkway, Reynold's Building, Room 102.

In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on February 28, 2005, at the Department of Transportation, 1263 South Stewart Street, Room 302, Carson City, Nevada and by video conference at the Department of Transportation, District I Office, 123 East Washington Avenue, Training Room B, Las Vegas, Nevada. An informational note precedes the regulations which explains the nature and purpose of the proposed change to the regulations.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* and *Notice of Hearing* along with the *text of the proposed regulations* or otherwise notify your employees.

JG:sq

cc: Agency Personnel Liaisons
Agency Personnel Representatives



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**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED TEMPORARY REGULATIONS AND
NOTICE OF HEARING
FOR THE TEMPORARY AMENDMENT OF
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

Workshop Notice: The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the temporary adoption and amendment of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 9:00 a.m. on February 28, 2005, at the Department of Transportation, 1263 S. Stewart Street, Room 301, Carson City, Nevada and via video conference at the Department of Transportation, District I Office, 123 E. Washington Avenue, Training Room B, Las Vegas, Nevada.

Action - Newly proposed regulations for temporary adoption and amendment

NAC REGULATION

"Lack of promotional candidates" defined

New Section

"Entry level" defined

NAC 284.063

"Journey level" defined

NAC 284.069

Active lists: Removal and reactivation of names; refusal to consider certain persons.

NAC 284.374

Confidential records.

NAC 284.718

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

Hearing Notice: The Personnel Commission will hold a public hearing at 8:00 a.m. on March 25, 2005, in Las Vegas at the University of Nevada – Las Vegas, 4505 Maryland Parkway, Lied Library, 2nd Floor Conference Room. A videoconference link will also be available in Carson City at Western Nevada Community College, 2201 West College Parkway, Reynold's Building, Room 102. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of temporary regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and the purpose of the proposed temporary regulations precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Shelley Blotter, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before March 7, 2005.** A copy of this notice and the regulations to be amended will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the temporary regulations to be adopted or amended will be available at the Department of Personnel, 209 East Musser Street, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code that is proposed for amendment. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principle reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street
Nevada State Library and Archives, 100 Stewart St.
Capitol Building, Main Floor
NDOT, Room 302, 1263 South Stewart Street
WNCC, Reynold's Bldg., 2201 W. College Pkwy.

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

NDOT, Training Room A, 123 E. Washington Ave.
UNLV, Lied Library, 4505 Maryland Pkwy.

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: *We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Debra Berry at (775) 684-0110, no later than five working days prior to the meeting.*

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

Explanation of Proposed Change: This new section, proposed by the Department of Personnel, provides a definition of the commonly used phrase, “lack of promotional candidate.”

NEW SECTION “Lack of promotional candidate” defined. (NRS 284.065, 284.155, 284.295) *“Lack of promotional candidate” means sufficient applicants for promotion are not normally available. A class may receive this designation when there are historically less than five candidates available within state service.*

Sec. 2. NAC 284.063 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows additional classes to be defined as “entry level”.

NAC 284.063 “Entry level” defined. (NRS 284.065) “Entry level” ~~[means the lowest class within a class series. Where a trainee level exists, the term includes both the trainee and the next higher level.]~~ *includes trainee and journey level classes where supervision is not a requirement of the class.*

(Added to NAC by Dep’t of Personnel, eff. 10-26-84)

Sec. 3. NAC 284.069 is hereby amended to read as follows:

Explanation of Proposed Change: This section, proposed by the Department of Personnel, aligns the definition with current practice.

NAC 284.069 “Journey level” defined. (NRS 284.065) “Journey level” means the level of performance within an occupational specialty that requires ~~[independent action, analysis and interpretation.]~~ *a degree of knowledge and proficiency sufficient to perform independently with little or no additional training.* (Added to NAC by Dep’t of Personnel, eff. 10-26-84)

Sec. 4. NAC 284.374 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, removes the name of an otherwise qualified applicant from an open competitive or promotional list if they decline an interview three times. If a subsequent recruitment opens for the same class within a 3-year period, the applicant may request to have his name placed on this list provided he still meets the minimum qualifications. The purpose of this amendment is to expedite the recruitment process and allow those individuals that are truly interested in employment to be considered.

NAC 284.374 Active lists: Removal and reactivation of names; refusal to consider certain persons. (NRS 284.065, 284.155, 284.250, 284.295)

1. The names of eligible persons will be removed from the active lists for any of the following causes:

(a) Appointment after certification to fill a full-time permanent position in the class for which the examination was given.

(b) Expiration of the term of eligibility.

(c) Separation of a person who is eligible for promotion from the state service.

(d) Failure by an eligible person to respond within the required time to an inquiry of availability.

(e) A statement by the eligible person that he is not willing to accept any type of appointment from the eligible list.

(f) Any of the causes listed in NRS 284.240 pursuant to which the Director may refuse to examine or certify an eligible person, failure to disclose convictions as required by NAC 284.321 or, if the employee has been laid off, reemployment pursuant to subsection 5 of NAC 284.630.

(g) Declining an interview three times from an open or promotional recruitment.

2. An appointing authority need not consider an eligible person more than three times from a recruitment. Consideration of an applicant for other than full-time permanent positions must not be counted for the purposes of this subsection.

3. An appointing authority may refuse to consider an eligible person who has been subject to a suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12 months. The 12-month period begins on the effective date of the uncontested action or, if it is contested, on the date the hearing officer issues his final decision upholding a suspension, demotion or termination. If an employee is removed from consideration pursuant to this subsection, the appointing authority must notify the employee of that fact in writing before interviewing the next candidate or making its selection. The employee has 3 working days after being notified that he has been removed from consideration pursuant to this subsection to notify the appointing authority of any discrepancy in the information in his personnel file which led to the removal of the employee from consideration. The appointing authority may not make its selection:

(a) If the employee does not notify the appointing authority of a discrepancy, until after the end of the period pursuant to which the employee may notify the appointing authority of a discrepancy; or

(b) If the employee notifies the appointing authority of a discrepancy, until after the appointing authority determines whether the removal of the employee from consideration pursuant to this subsection was appropriate.

4. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the Commission pursuant to NAC 284.375.

5. An eligible person whose name has been removed from an active list may request that his name be reactivated by stating his reasons for the request. If the Department of Personnel determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his name may be reactivated.

[Personnel Div., Rule V § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 12-26-91; 7-1-94; 8-16-96, eff. 10-1-96; A by Personnel Comm'n by R069-02, 8-14-2002; R182-03, 1-27-2004)

Sec. 5. NAC 284.718 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies that interview materials are confidential and access is not allowed.

NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.407)

1. The following types of information, which are maintained by the Department of Personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Department of Personnel on the condition that the source remain confidential;

(b) Any document which is used by the Department of Personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Materials used in examinations, including suggested answers for oral examinations;

(e) Records and files maintained by the Employee Assistance Program;

(f) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(g) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(h) Any information contained on a person's application or relating to his status as an eligible person; and

(i) Information in the file or record of employment of a current or former employee which relates to his:

- (1) Performance;
- (2) Conduct, including any disciplinary actions taken against him;
- (3) Race, ethnic identity or affiliation, sex, disability or date of birth;
- (4) Home telephone number; or
- (5) Social security number.

(j) Any document which is used by the Department of Personnel or an agency in the interview process including interview questions, instruments used for rating candidates, and rater notes.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

- (a) The employee dies; or
- (b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Department of Personnel relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004)